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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,318	03/31/2004	Ron Wortley	11984.6	5172
27966 7590 04/06/2010 KENNETH E. HORTON KIRTON & MCCONKLE 60 EAST SOUTH TEMPLE SUITE 1800 SALT LAKE CITY, UT 84111				
			EXAMINER BACHMAN, LINDSEY MICHELLE	
			ART UNIT 3734	PAPER NUMBER
			NOTIFICATION DATE 04/06/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/814,318

Applicant(s)

WORTLEY ET AL.

Examiner

LINDSEY BACHMAN

Art Unit

3734

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This Office Action is in response to Applicant's amendment filed 1 December 2009.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 27 is dependent upon itself. It is unclear which claim Applicant intends for Claim 27 to depend from.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Garvey (US Patent 17,272).

Claim 1, 2, 3, 4, 5, 6, 7, 8, 14: Garvey discloses a tip containing gripping means (figure 3, a) a plurality of flexible connector shaft members (Figure 3; element b and second unlabeled extension) having a first end extending from the tip and a second end

that is closed, and a rigid tunneler shaft having a first tapered end and a second end that is proximate the tip (Figure 3; needle tip)

Claims 1-8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley (US Patent 899,381).

Bradley discloses a tip containing gripping means (region between element 3 and elements 5 and 6 in Figure 4); a plurality of flexible connector (5, 1 and 6) having unequal lengths and closed ends; and a rigid tunneler shaft (3) having a tapered, closed end section (Figure 4).

Claims 1-8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoon (US Patent 5,437,680).

Claim 1, 2, 3, 4, 5, 6, 7, 8, 14: Yoon'680 discloses a tip with gripping means (20, 22), a plurality of flexible connector shaft members (10, 16) having unequal lengths; and a rigid tunneler shaft (12) having a tapered end (Figure 1).

Claim 1-19, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ravenscroft et al. (US Patent 6,258,026).

Claim 1, 5: Ravenscroft'026 discloses a device that contains a tip (distal end of element 12) that can be gripped, a plurality of flexible connector shaft members (18, 26) having unequal lengths and closed ends (distal ends); and a rigid tunneler shaft (proximal end of element 12) with a tapered, closed end (proximal end).

Claim 2, 6: The connector shafts of Ravenscroft'026 are capable of being retained in a catheter.

Claim 3, 7, 14: The connector shafts of Ravenscroft'026 are capable of being retained in a catheter with a protrusion in the catheter lumen.

Claim 4, 8: The differences in lengths of the shaft members ranges up to about 20 percent (see Figure 1).

Claim 9, 10, 11: Alternately, the tip can be the bundle of filter leg ends welded together while the hub is the cap (tunneler, 12) that fits over the welded bundle. This would make the tunneler removable from the tip. Ravenscroft'026 discloses a sheath (34) that covers the tip and tunneler shaft (Figure 8).

Claim 12: The sheath (34) is retained on the tip (12) using a retaining ring (50; Figure 8).

Claim 13: The retaining ring (50) complements the protrusion on a connector shaft member (see Figure 8).

Claim 15, 26: Ravenscroft'026 discloses a device that contains a tip (distal end of element 12) that can be gripped, a plurality of flexible connector shaft members (18, 26) having unequal lengths and closed ends (distal ends); and a rigid tunneler shaft (proximal end of element 12) with a tapered, closed end (proximal end). Ravenscroft'026 also teaches a sheath (34) that covers the tip and tunneler shaft (Figure 8).

Claim 16, 20: Ravenscroft'026 teaches that the connector shaft members contain a protrusion (bend 22 for elements 18 and wider portions of elements 26 next to hooks 28).

Claim 17: The sheath (34) of Ravenscroft'026 is contained over the connector shaft members and the tunneler shaft (Figure 8).

Claim 18: The sheath (34) is retained over the tip (12) using a retaining ring (50).

Claim 19: The retaining ring (50) complements the protrusion on a connector shaft member (see Figure 8).

Claim 27: The connector shafts of Ravenscroft'026 are capable of being retained in a catheter with a protrusion in the catheter lumen.

Claim Rejections - 35 USC § 103

Claim 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft'026 in view of Mertens (US Patent Application 2003/0163082).

Claim 21, 28: Ravenscroft'026 discloses a device that contains a tip (distal end of element 12) that can be gripped, a plurality of flexible connector shaft members (18, 26) having unequal lengths and closed ends (distal ends); and a rigid tunneler shaft (proximal end of element 12) with a tapered, closed end (proximal end). Further, regarding Claim 28, Ravenscroft'026 teaches that the connector shaft members contain a protrusion (bend 22 for elements 18 and wider portions of elements 26 next to hooks 28). Ravenscroft'026 teaches delivering the filter device through a catheter, but not a multi-lumen catheter.

Mertens'082 teaches that it is known to use multi-lumen catheters the same way as other types of catheters, including in vena cava filter delivery (paragraph [0004], [0005]). The claim would have been obvious because the substitution of one known

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element (single lumen catheter) for another (multi-lumen catheter) would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LINDSEY BACHMAN** whose telephone number is (571)272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. B./
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734